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ROUTING AND RECORD SHEET

DD/A

File

DD/A Registry

77-6256/2

SUBJECT: (Optional)

FROM:

Legislative Counsel
6D15 HQ

EXTENSION

NO.

DATE

15 December 1977

STAT

TO: (Officer designation, room number, and building)

DDA

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

RECEIVED 15 DEC 1977

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DDA
7D18 HQ

16 DEC 1977

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Concerning Title I of the intelligence charter legislation:

Tab A--For your information, a copy of a memorandum for the record of the meeting on Title I Monday, 12 December.

Tab B--For your review, a revised draft of our Title I, reflecting matters resolved at the Monday meeting.

Tab C--For your review, an issues paper listing and explaining major provisions in Title I and how these are addressed in the E.O., the SSCI draft, the DOD draft and the DCI draft. It is contemplated that this will be submitted to the NSC/SCC, pursuant to the "Brzezinski memo" as the basis from which the Director will develop Administration positions; we have not yet decided whether to include the DOD provisions. Please provide any comments by noon, Friday, 16 December, so this can be finalized to go to the SCC.

Your office earlier was provided a copy of the latest SSCI drafts of Titles I, III and IV. Please provide your comments on Title I by COB Tuesday 13 December. Thank you. (I have your comments on the SSCI material; many thanks. If you have any more, they would, of course, be welcome.)

Assistant Legislative Counsel

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MEMORANDUM FOR THE RECORD

SUBJECT: Title I, Intelligence Charter Legislation

1. (U/IUO) A meeting was held with the Director, Morning Meeting participants and other officers from OLC and OGC on Monday, 12 December 1977, to discuss issues relating to the following drafts of Title I of the intelligence charter legislation: the Senate Select Committee on Intelligence (SSCI) 18 November 1977 draft, the Department of Defense 21 November draft and the DCI draft of 5 December 1977. After a short briefing comparing significant aspects of each of these three drafts, various provisions of the DCI draft were discussed. Following this discussion, and with the Director's concurrence, the following issues were resolved:

a. The DCI draft will not deal specifically with tactical or departmental intelligence.

b. The DCI draft will address matters relating to the "Director of National Intelligence" rather than Director of Central Intelligence.

c. Insofar as terms in the DCI draft are defined also in the draft Executive Order, these will be identical.

d. The DCI draft will not specify duties or functions of the Deputy Director or of the functional Deputy Directors. Rather, it will direct that these persons will perform such duties as the Director may from time to time assign or delegate, thereby leaving the Director free to assign or reassign duties, including as between that person primarily responsible for managing the CIA and the other Deputies, as he deems necessary and appropriate.

e. Establishment of the "Office of the Director of Central Intelligence," incorporated in the 5 December DCI draft, will be deleted, thereby limiting the Director's statutory "organizational power base" to the CIA. There was a consensus that the four functional Deputies--tentatively, the duties of which are envisaged as encompassing NFAC, Budget, Tasking and Administration--will, as the Director determines, respond directly to tasking from the Director. Moreover, it is envisaged that at least two of these functional Deputies--Administration and NFAC--will wear hats also as heads of corresponding Agency components.

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2. (U/IUO) Concerning the directives contained in the memorandum from Dr. Brzezinski of 6 December 1977 placing with the Director primary responsibility for developing Administration position on charter legislation, it was agreed that we will proceed on the assumption that the Director may "redelegate" responsibility for pulling together positions on particular portions of the charter (e.g., the FBI title) to other departments or agencies with the primary interest.

3. (U/IUO) Also in reference to the Brzezinski memorandum, it was agreed that the IC Staff, OLC and OGC will jointly develop DCI positions on charter issues, including the drafting of other titles. As a first step, we will prepare an issues paper to present to the SCC for the Director's use in preparing and presenting an Administration position on Title I. This paper will identify those major issues which are either not addressed by the draft E.O. or are in conflict with the draft Order; it will indicate the manner in which these are covered in the SSCI and DOD drafts; and it will state a DCI position on each of these.

4. (U/IUO) It appeared to be the sentiment that we would amend the 5 December DCI draft to reflect the positions stated in paragraph 1 above, with a view toward making it available to the SSCI at the earliest opportunity after sending it to the SCC and DOD



Acting Legislative Counsel

cc: Morning Meeting Participants

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NATIONAL INTELLIGENCE ACT OF 1978

TITLE I -- INTELLIGENCE ACTIVITIES

Tuesday - 13 December 1977

TITLE I -- Intelligence Activities

- Sec. 101. Statement of Purposes
- Sec. 102. Definitions
- Sec. 103. Director, Deputy Director of National Intelligence
and Functional Deputy Directors
- Sec. 104. General Authorities and Responsibilities
- Sec. 105. Authorities and Duties of the Director of National
Intelligence
- Sec. 106. Requirements Relating to Appropriations for
Intelligence Activities
- Sec. 107. Special Activities and Sensitive Collection Operations
- Sec. 108. Reporting on Violations; Intelligence Oversight Board
- Sec. 109. Reporting to the Congress

TITLE I -- INTELLIGENCE ACTIVITIES

STATEMENT OF PURPOSES

Sec. 101. It is the purpose of this title --

- (a) to grant authority and assign responsibility for intelligence activities to ensure that the Government shall have the intelligence information and analysis necessary to make informed decisions regarding the national security of the United States;
- (b) to ensure that intelligence activities of the United States are properly and effectively directed, regulated, coordinated, and administered;
- (c) to authorize and provide effective oversight for special activities in support of national foreign policy objectives, and to ensure that such activities are properly approved and effectively directed;
- (d) to provide for the effective oversight of intelligence activities of the United States, and to ensure that such activities are conducted in accordance with the Constitution and laws of the United States; and
- (e) to provide for the appointment of a Director, a Deputy Director of National Intelligence and functional Deputy Directors, and to establish the authorities and duties of the Director.

DEFINITIONS

Sec. 102. As used in this title --

(a) The term "intelligence" includes:

(1) "Foreign intelligence" which means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including foreign counterintelligence except for information on international terrorist activities; and

(2) "Foreign counterintelligence," which means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, international terrorist activities or assassinations conducted for or on behalf of foreign powers, organizations or persons, but not including personnel, physical, document or communications security programs.

(b) The term "intelligence activity" means any activity undertaken by an agency within the Intelligence Community relating to the collection, processing, analysis, production, coordination or dissemination of intelligence, and any activity in support thereof.

(c) The term "Intelligence Community" means:

(1) The Central Intelligence Agency;

(2) The National Security Agency;

(3) The Defense Intelligence Agency;

(4) Offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) The Bureau of Intelligence and Research of the Department of State;

(6) Intelligence elements of the military services;

(7) Intelligence elements of the Federal Bureau of Investigation;

(8) Intelligence elements of the Department of the Treasury;

(9) Intelligence elements of the Department of Energy;

(10) Intelligence elements of the Drug Enforcement Administration; and

(11) Such other entities as may be engaged in intelligence activities and as designated by the President in Executive Order.

(d) The term "international terrorist activity" means any activity which:

(1) involves:

(i) killing, causing serious bodily harm to, or kidnapping one or more individuals, or

(ii) violent destruction of property, or

(iii) an attempt or credible threat to commit acts specified in subparagraphs (i) or (ii) above; and

(2) appears intended to endanger a protectee of the Secret Service or the Department of State or to further political, social or economic goals by:

(i) intimidating or coercing a civilian population or any segment thereof,

(ii) influencing the policy of a government or international organization by intimidation or coercion, or

(iii) obtaining widespread publicity for a group or its cause; and

(3) transcends national boundaries in terms of:

(i) the means by which it is accomplished,

(ii) the civilian population, government, or international organization it appears intended to coerce or intimidate, or

(iii) the locale in which its perpetrators operate or seek asylum.

(e) The term "intelligence sources and methods" means information concerning (1) methods of collecting foreign intelligence or foreign counterintelligence; (2) sources of foreign intelligence or foreign counterintelligence, whether human, technical or other; or (3) methods and techniques of analysis and evaluation of foreign intelligence or foreign counterintelligence; regardless of its origin, that is classified or designated pursuant to the provisions of a statute or Executive Order, or a regulation or a rule issued pursuant thereto, as information requiring a specific degree of protection against unauthorized disclosure for reasons of national security or in the interests of the security of the intelligence activities of the United States.

(f) The term "national intelligence" means intelligence intended primarily to be responsive to the needs of the President, the National Security Council and other Executive Branch officials engaged in the formulation and execution of national security and foreign relations policies of the United States, including but not limited to intelligence collected or produced under the direction of the Director of National Intelligence by agencies funded in the National Foreign Intelligence Program budget.

(g) "National Foreign Intelligence Program" (hereinafter in this title referred to as "NFIP") means:

(1) The programs of the CIA;

(2) The Consolidated Cryptologic Programs, and the programs of the offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance except such elements as the Director of National Intelligence and the Secretary of Defense agree should be excluded;

(3) The elements of the General Defense Intelligence Program and other programs of agencies within the Intelligence Community designated by the Director of National Intelligence and the head of the department as national intelligence activities; and

(4) Activities of the staff elements of the Office of the Director of National Intelligence;

but not including activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces.

(h) The term "sensitive intelligence collection operation" means any intelligence collection activity or activity in support thereof which the President determines carries a significant risk of causing serious harm to the national security or foreign relations of the United States if revealed.

(i) The term "special activity in support of national foreign policy objectives" means an activity conducted abroad which is designed to further official United States programs and policies abroad and which is planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activity, but not including the collection and production of intelligence or related support functions.

DIRECTOR, DEPUTY DIRECTOR OF NATIONAL
INTELLIGENCE AND FUNCTIONAL DEPUTY DIRECTORS

Sec. 103. (a) There shall be a Director of National Intelligence (hereinafter in this title referred to as "Director", a Deputy Director of National Intelligence and four functional Deputy Directors (hereinafter in this title referred to as "functional Deputy Directors"), all of whom shall be appointed by the President, by and with the advice and consent of the Senate; Provided, that no person may serve as Director or Deputy Director of National Intelligence for a period of more than six years unless such person is reappointed by the President, by and with the consent of the Senate; and Provided further, that no person who has served as Director or as Deputy Director of National Intelligence may be appointed to such position for more than one additional six-year term.

(b) The Deputy Director of National Intelligence and the functional Deputy Directors shall assist the Director in furtherance of his authorities and duties under this Act, by performing such functions as the Director may from time to time assign or delegate. The Deputy Director of National Intelligence shall act for, and exercise the powers of the Director in his absence or disability or in the event of a vacancy in the position of the Director. The Director shall designate the order in which the functional Deputy Directors shall act for and perform the functions of the Director or the Deputy Director of National Intelligence during the absence or disability of either the Director or Deputy Director of National Intelligence or in the event of vacancies in both of these offices.

(c) The positions of Director and Deputy Director of National Intelligence shall not be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status; Provided, that at no time shall more than three of the positions of Director, Deputy Director of National Intelligence or functional Deputy Directors be occupied by commissioned officers of the armed services, whether in an active or retired status.

(d)(1) Any commissioned officer of the armed forces appointed as Director, Deputy Director of National Intelligence or a functional Deputy Director shall, in the performance of the duties of such position:

(i) be subject to no supervision, control, restriction or prohibition (military or otherwise) other than would be applicable if the officer were a civilian in no way connected with the Department of Defense, a military department, or the armed forces of the United States or any component thereof; and

(ii) possess or exercise no supervision, control, powers or functions (other than as Director, Deputy Director of National Intelligence or a functional Deputy Director) with respect to the Department of Defense, a military department, or the armed forces of the United States or any component thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in paragraph (1) of this subsection, the appointment to the office of Director, Deputy Director of National Intelligence or a functional Deputy Director of such officer and his acceptance of and service in such an office, shall in no way affect any status, office, rank or grade he may occupy or hold in the armed forces, or any emolument, perquisite, right, privilege or benefit incident to or arising out of any such status, office, rank or grade. Any such officer, while serving in the office of Director, Deputy Director of National Intelligence or a functional Deputy Director, shall be compensated from funds appropriated to the Director, at the rate established for such position.

(3) The rank or grade of any such officer, during any period such officer occupies the office of Director, Deputy Director of National Intelligence or a functional Deputy Director, shall be in addition to the numbers and percentages authorized and appropriated for the military department of which such officer is a member.

(4) The Director shall be entitled to the same compensation prescribed by section 5312 of Title 5, United States Code, for positions at level I of the Executive Schedule. If a commissioned officer of the armed forces is serving as Director, he shall be entitled to the difference, if any, between his regular military compensation (as defined in section 101(25) of Title 37, United States Code) and the compensation prescribed by section 5312 of Title 5, United States Code, for positions at level I of the Executive Schedule.

(5) The Deputy Director of National Intelligence shall be entitled to the same compensation prescribed by section 5313 of Title 5, United States Code, for positions at level II of the Executive Schedule. If a commissioned officer of the armed forces is serving as Deputy Director of National Intelligence, he shall be entitled to the difference, if any, between his regular military compensation (as defined in section 101(25) of Title 37, United States Code) and the compensation prescribed by section 5313 of Title 5, United States Code, for positions at level II of the Executive Schedule.

(6) A functional Deputy Director shall be entitled to the same compensation prescribed by section 5314 of Title 5, United States Code, for positions at level III of the Executive Schedule. If a commissioned officer of the armed forces is serving as a functional Deputy Director, he shall be entitled to the difference, if any, between his regular military compensation (as defined in section 101(25) of Title 37, United States Code) and the compensation prescribed by section 5314 of Title 5, United States Code, for positions at level III of the Executive Schedule.

GENERAL AUTHORITIES AND RESPONSIBILITIES

Sec. 104. (a) Subject to the provisions of this Act, and as provided by this Act, the Director and the agencies within the Intelligence Community are authorized to engage in intelligence activities and special activities in support of national foreign policy objectives, under the direction of the National Security Council; Provided, that the agencies within the Intelligence Community shall support the Director in carrying out his authorities and duties under this title.

(b) Appropriate senior officials of agencies within the Intelligence Community, in discharging their responsibilities, shall ensure that all activities for which they are responsible are carried out in accordance with the Constitution and laws of the United States.

AUTHORITIES AND DUTIES OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Sec. 105. (a) The Director of National Intelligence, under the direction of the National Security Council, shall be the principal intelligence officer of the United States, shall be the principal adviser to the President and to the National Security Council on national intelligence, shall provide the President and other officials in the Executive Branch with national intelligence, and shall be the principal spokesman to the Congress for the Intelligence Community.

(b) In carrying out his duties under this Act the Director, under the direction of the National Security Council, shall be responsible for the coordination of national intelligence activities of the Government.

(c) The Director shall head the Central Intelligence Agency according to the provisions of this Act, and as head of the Agency, the Director is authorized to employ such persons as necessary to fulfill his authorities and duties under this Act.

(d) It shall be the duty of the Director to collect, produce, analyze, coordinate and disseminate, within the Government, national intelligence; Provided, that in carrying out these duties, the Director shall:

(1) have authority to levy analytical tasks on agencies within the Intelligence Community;

(2) have authority to levy collection tasks on agencies within the Intelligence Community to fulfill requirements and priorities established by the National Security Council;

(3) develop, consistent with the requirements and priorities established by the National Security Council, policies, objectives and other guidance for the Intelligence Community in anticipation of future national intelligence needs;

(4) promote and direct the development and maintenance of services of common concern to the Intelligence Community; and

(5) formulate policies with respect to intelligence arrangements with foreign governments, and coordinate intelligence relationships between the various agencies within the Intelligence Community and foreign intelligence or internal security services of foreign governments;

(6) establish, as appropriate and notwithstanding the provisions of any other law, committees or other advisory groups to assist in the execution of the foregoing responsibilities.

(e) The Director shall, under the provisions of this Act, ensure implementation of special activities in support of national foreign policy objectives and sensitive intelligence collection operations; Provided, that only the Central Intelligence Agency may conduct such special activities, except for the military services in wartime and except where the President determines the objective of such special activity is more likely to be achieved by another agency within the Intelligence Community.

(f) Notwithstanding the provisions of any other law, the Director may, in his discretion, terminate the employment of any officer or employee of the Central Intelligence Agency whenever he shall deem such termination necessary or advisable in the interests of the United States, but such termination shall not affect the right of any such officer or employee to seek or accept employment elsewhere in the Government if declared eligible for such employment by the United States Civil Service Commission.

(g) The Director shall have full and exclusive authority for approval of the NFIP budget submitted to the President through the Office of Management and Budget and, after approval by the President, the Director shall present the budget to the Congress.

(h) The Director shall be responsible for protecting intelligence sources and methods against unauthorized disclosure, and shall ensure the development and coordination of programs which properly protect intelligence sources and methods.

(i) The Director shall, on a continuing basis, review and evaluate all ongoing and proposed national intelligence activities and special activities in support of national foreign policy objectives in order to ensure that such activities are carried out in accordance with the Constitution and laws of the United States and with Presidential directives.

(j) The Director shall act as the principal spokesman for the Intelligence Community to the public on matters concerning national intelligence.

(k) The Director shall participate with the Attorney General and the legal officers of the agencies within the Intelligence Community in the development of procedures required by this Act and by Executive Order to be approved by the Attorney General governing the conduct of intelligence activities.

(l) To assist the Director in the fulfillment of responsibilities assigned in this section, the heads of all Executive Branch departments and agencies, in accordance with law and relevant Attorney General procedures and Executive Orders, shall give the Director access to all information relevant to the intelligence needs of the United States.

REQUIREMENTS RELATING TO APPROPRIATIONS
FOR INTELLIGENCE ACTIVITIES

Sec. 106. (a) No funds may be appropriated for any fiscal year beginning after September 30, 1978, for the purpose of carrying out any intelligence activity unless such funds have been previously authorized for such activity by legislation enacted during the same fiscal year or the two fiscal years immediately preceding that for which they are appropriated, except that the foregoing limitation shall not apply to funds appropriated by any continuing resolution.

(b) The Director is authorized to:

(1) Transfer to and receive from other Government agencies such sums as may be approved by the Office of Management and Budget, for the performance of any of the authorities or duties authorized under this title, and any other Government agency is authorized to transfer to or receive from the Director such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Director in accordance with this paragraph may be expended for the purposes and under the authority of this title without regard to limitations of appropriations from which transferred;

(2) Exchange funds without regard to section 543 of Title 31; and

(3) Reimburse other Government agencies for services or personnel assigned to the Central Intelligence Agency, and such other Government agencies are authorized, without regard to provisions of law to the contrary, so to assign or detail any officer or employee for such duty.

(c) The Director shall establish guidelines under which proposed reprogramming of funds in the NFIP budget shall require his prior approval; Provided, that the heads of each agency within of the Intelligence Community shall advise the Director of any proposed reprogramming falling within the guidelines; and Provided further, that the Director shall review each such proposal and his approval shall be required for any such reprogramming.

(d) The Director is authorized to maintain a fund to be known as the Reserve for Contingencies (hereinafter in this section referred to as the "Reserve") and to credit to the Reserve only such newly appropriated monies as are specifically appropriated to the Director for the Reserve. The Director is authorized to expend funds from the Reserve in any fiscal year for the payment of emergency and extraordinary expenses incurred in connection with any intelligence activity or special activity in support of national foreign policy objectives only if:

(1) the withdrawal of funds from the Reserve has been previously approved by the Office of Management and Budget; and

(2) the Appropriations Committees and the Select Committees on Intelligence of the House and the Senate are kept fully and currently informed of all withdrawals; Provided, that the foregoing shall not be construed as requiring the approval of any committee of the Congress prior to the implementation of any such activity.

(e) Any monies in the Reserve so approved for expenditure under the provisions of paragraph (d) of this section but not actually expended for the specific purpose for which approved shall remain in or revert to the Reserve.

(f) Any activity funded from the Reserve which continues after the end of the fiscal year in which such activity was initiated shall be funded thereafter through the regular budgetary process at the earliest practicable time.

(g) The Director may expend funds appropriated to him for objects of a confidential, extraordinary or emergency nature, and such expenditures shall be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount certified therein.

SPECIAL ACTIVITIES AND SENSITIVE COLLECTION ACTIVITIES

Sec. 107. (a) The National Security Council, in conjunction with the Director of National Intelligence, shall review and make written recommendations to the President concerning each special activity in support of national foreign policy objectives (hereinafter in this section referred to as "special activity") and each sensitive intelligence collection operation (hereinafter in this section referred to as "sensitive collection operation") or significant proposed change thereto.

(b) No funds may be expended for any special activity, or significant change thereto, unless and until the President has made a written finding that such activity or change is important to the national security of the United States and is consistent with the foreign policy goals of the United States.

REPORTING ON VIOLATIONS; INTELLIGENCE OVERSIGHT BOARD

Sec. 108. (a) The heads of departments and agencies within the Intelligence Community and their Inspectors General and General Counsels shall be responsible for reporting in a timely manner to the Attorney General and to the Intelligence Oversight Board established by this section, concerning any intelligence activity brought to their attention which may be improper or which may constitute a violation of the Constitution or any law of the United States, or of any Presidential directive; Provided, that the Intelligence Oversight Board shall keep the Director informed of such reporting on matters relating to national intelligence; and Provided further, that the Attorney General and the Intelligence Oversight Board shall advise the President of any such activity which, in their view, constitutes a violation of the Constitution or any law of the United States; and Provided, further, that the Attorney General, with due regard to his investigative and prosecutorial responsibilities, shall report periodically to the Select Committees on Intelligence of the House and the Senate concerning activities which have been reported to the President under this section.

(b) The heads of departments and agencies within the Intelligence Community shall formulate and implement, in consultation with the Director, the Attorney General and the Intelligence Oversight Board, procedures to discover and report on intelligence activities that may be improper or which may constitute violations of the Constitution or laws of the United States, or of any Presidential directive.

(c) Senior officials of agencies within the Intelligence Community shall report to the Attorney General evidence of possible violations of Federal criminal law by an employee of the agency, as well as evidence concerning such violations by any other person as to those Federal criminal laws specified in guidelines promulgated by the Attorney General.

(d) There shall be, under the direction of the President, an Intelligence Oversight Board (hereinafter in this Section referred to as the "Board"), consisting of three members appointed by the President from outside the Government; Provided, that no member of the Board shall have any financial or contractual relationships with any agency within the Intelligence Community; and Provided further, that one member shall be designated by the President as chairman.

(e) The Board shall receive and consider all reports by the Attorney General, the heads of any agency within the Intelligence Community, and the Inspectors General or General Counsels of any agency within the Intelligence Community submitted pursuant to paragraph (a) of this section.

(f) Nothing in this section shall prohibit any employee of any agency within the Intelligence Community from reporting any matter described in paragraph (a) of this section directly to the Attorney General or to the Intelligence Oversight Board.

(g) The Board is authorized to employ such personnel as may be necessary to carry out its function under this section; Provided, that no such person shall have any financial or contractual relationship with any agency within the Intelligence Community.

(h) The Board shall, upon the request of any member, be granted access to all information relevant to any activity covered by this section in order to carry out its duties under this Act.

REPORTING TO THE CONGRESS

Sec. 109. Consistent with all applicable authorities and duties, including those conferred by the Constitution upon the Executive and Legislative Branches, and with due consideration for the duties under law to protect intelligence sources and methods, the Director and heads of agencies within the Intelligence Community shall:

(a) Keep the Select Committees on Intelligence of the House and the Senate fully and currently informed with respect to intelligence activities, including any significant anticipated activities which are the responsibility of, or engaged in, by such agency; Provided, that the Director shall report to the Select Committees on Intelligence of the House and the Senate in a timely manner the special activities, and significant changes thereto, approved by the President; Provided further, that this does not constitute a condition precedent to the implementation of any such intelligence activity;

(b) Provide any information or document in the possession, custody or control of the agency or person paid by such department or agency, within the jurisdiction of the Select Committees on Intelligence of the House or the Senate, upon the request of such Committee; and

(c) Report in a timely fashion to the Select Committees on Intelligence of the House and the Senate information relating to intelligence activities that are illegal or improper and corrective actions that are taken or planned.

15 DEC 1977

MAJOR ISSUES RELATING TO TITLE I OF THE CHARTER
LEGISLATION WHICH ARE IN CONFLICT WITH OR NOT
ADDRESSED IN THE DRAFT EXECUTIVE ORDER

(References are to the 18 November 1977 Senate Select Committee on Intelligence Draft Title I, DOD's 22 November 1977 Draft Title I, the DCI's 13 December 1977 Draft Title I and the draft revision of E.O. 11905.)

1. ISSUE: Statutory Director, Deputy Director and Assistant or Functional Deputy Directors.

a. E.O. --Not addressed; cannot change present "Director of Central Intelligence" designation.

b. SSCI--Establishes the positions of Director of National Intelligence (Level I) and Deputy Director (Level II); the President may appoint up to five Assistant Directors. All seven of these positions would be subject to Senate confirmation. The Deputy would assist the Director in carrying out his functions and would act for and exercise the powers of the Director in his absence or in the event of a vacancy. The President may transfer--subject to congressional approval--such of the Director's duties as head of CIA as he deems appropriate to the Deputy or to any Assistant(s). There would be a six-year term (with the possibility of one six-year reappointment) for the Director and Deputy, both of which positions could not be occupied simultaneously by military officers. The Director shall "act as director" of the CIA.

c. DOD--Similar to provisions in the SSCI draft except: one and only one of the two positions of Director and Deputy Director shall be occupied by a military officer; the President could appoint up to [only] four Assistant Directors; the Director would "serve as executive head" of the CIA; the Director would be Level II and the Deputy Level III.

d. DCI Position--The Director should be a Level I appointee and should be given clear authority to "head" the CIA. There should be a single Deputy Director at Level II as the Director's alter-ego, and four "functional Deputy Directors," at Level III, to assist the Director as he deems appropriate (i.e., no functions or titles specified in the statute). Since the Director is given certain statutory duties and authorities, with a Deputy and four functional Deputies, he should be able to assign and delegate, and re-assign and re-delegate, such of his duties and authorities to these subordinate officers as he deems appropriate in his discretion. It therefore would be inappropriate and unnecessary to require by statute a Presidential authorization--subject to congressional approval--for such "transfer" of duties and authorities. The title of the Director should be changed to "Director of National Intelligence."

2. ISSUE: Authorities of the Director.

a. E.O.--The Director is given 19 separate authorities and duties, with several specified included authorities and duties, to exercise under the direction of the NSC.

b. SSCI--The listing of the Director's "authority and duties" covers eight pages of the draft title. Included, for example, are provisions that direct the Director to review and report annually to the President, the NSC and the Congress on "relationships among the national intelligence activities and other intelligence and intelligence-related activities"; to review "on a continuing basis ... all ongoing and proposed national intelligence activities ... to assure that [they] are properly, efficiently and effectively directed, regulated, coordinated and administered" and that they provide the most cost-efficient intelligence; to "evaluate on a continuing basis the quality of national intelligence" and to report to the Congress thereon; and to ensure that "diverse points of view are ... carefully considered and that differences of judgment ... are fully expressed ..." in the production of national intelligence. Moreover, the Director would be required to report to the Congress, among other things, on use of his termination authority, on proposed "intelligence" arrangements with foreign governments, and on proposed special activities or any "exceptionally sensitive or sensitive clandestine collection project," and he would have to certify that all national intelligence activities are being conducted properly and lawfully. The Director is granted "full and exclusive approval authority over the annual national intelligence budget," with a list of directives to implement this authority.

c. DOD--The Director is specifically directed to review national intelligence activities to ensure their propriety and lawfulness, to serve as executive head of the CIA, to coordinate collection of national intelligence (including three additional implementing authorities), to coordinate dissemination of national intelligence (with specified implementing directives) to implement special activities, and to approve liaison arrangements. The Director is given responsibility for production of national intelligence analyses (with several specific further directives). The Director also "shall prepare and present to the Congress the unified budget for national intelligence activities."

d. DCI Position--The Director's duties and authorities should be clearly delineated in general terms; specific implementing directives and organizational considerations are more appropriately addressed in Executive Order. Excessive detail in statute mandates requirements that are unmanageable in practice, and tends to bring about results not intended by heightening the probability that activities not proscribed will be determined to be unauthorized for want of a specific statutory authority. The emphasis should be on defining and delimiting the Director's duties and authorities, the most important of which are that: (1) the Director shall be the principal intelligence officer and adviser; (2) the Director shall be responsible for coordinating national intelligence activities; (3) the Director shall head the CIA; (4) it shall be the duty of the Director to collect, produce, analyze and disseminate national intelligence and that, in carrying out this duty, among other things, he shall be able to levy analytical and collection tasks, maintain services of common concern and coordinate liaison relationships with foreign governments; (5) the Director shall ensure implementation of special activities; (6) the Director shall retain his existing statutory termination authority without being required to report to the Congress within a specified time frame on the exercise thereof; (7) the Director shall be responsible for protecting intelligence sources and methods; and (8) the Director shall have full and exclusive authority for approval of the NFIP budget submitted to the President through OMB. Insofar as these enumerated authorities and duties are addressed in the draft E.O., Title I need not and should not conflict substantively with the Order. However, since in many respects the charter and the E.O. serve different functions, or at least approach issues relating to intelligence activities from different perspectives, there will be differences. Thus, for example, much of the organizational detail in the E.O. need not and should not be in the charter, the language of which must be as tightly drawn and precise as possible.

3. ISSUE: Establishment of specialized committees within the NSC.

a. E.O.--Establishes the Special Coordinating Committee to review special activities and sensitive collection operations and to make recommendations thereon to the President. The SCC also is tasked with developing policy on national foreign counter-intelligence activities.

b. SSCI--Establishes the following committees within the NSC and specifies in detail the manner in which they will carry out their duties within the respective areas of concern: the Operations Coordinating Committee (special activities and sensitive collection operations), the Counterintelligence Committee and the Communications Security Committee.

c. DOD--Establishes the Intelligence Coordinating Committee to review and approve special activities, sensitive collection operations and sensitive counterintelligence activities.

d. DCI Position--The statute should not direct the establishment of any specific, named organizations to review and act on particular categories of authorized activities. This matter is appropriately addressed in Executive Order; to do so in law needlessly locks the Executive into a particular format and procedure. Rather, as in the DCI draft, responsibility for reviewing and acting on certain categories of activities (i.e., special activities and those collection operations determined by the President to be specially sensitive) should be placed with the NSC, leaving the mechanics to Executive Order. This establishes the appropriate authority and accountability but without interfering in the President's prerogatives to manage the Executive Branch within those statutory limits. Further, statutory directives as in the SSCI draft as to the material which the various members (e.g., the Director and the Attorney General) must provide the committees, and which the committees must utilize in carrying out their responsibilities, is unnecessary and would tend to be extremely burdensome if not unworkable in practice.

4. ISSUE: Restrictions and prohibitions on intelligence activities.

a. E.O.--Places specific restrictions on collection activities, special activities, experimentation, contracting, assistance to law enforcement authorities, personnel assigned to other agencies, indirect participation in prohibited activities, assassination and dissemination and storage of information.

b. SSCI--Places restrictions on relationships with foreign governments, use of individuals following religious vocations, Government grantees and journalists, use of persons as combatants in foreign countries, covert military assistance, certain forms of special activities, and assassination.

c. DOD--Reserves provisions on restrictions and prohibitions for inclusion in another title.

d. DCI Position--Restrictions and prohibitions should not be included in Title I, which concerns grants of authority and the structure for the Government's intelligence capability. In whichever title they are included, the restrictions and prohibitions should be clearly delineated, should not preclude voluntary relationships between the Government and other persons or entities, and should not attempt to deal with matters concerning the laws of other countries.

5. ISSUE: Appropriations for intelligence activities.

a. E.O.--Does not address.

b. SSCI--Requires that funds for national intelligence activities be authorized by legislation before appropriation. The Select Committees on Intelligence of the House and the Senate will recommend annually to their respective Houses what information regarding intelligence appropriations should be made public.

c. DOD--Requires that no funds for national intelligence activities may be appropriated unless authorized by legislation. The funds will be authorized "in a single specified amount, without further limitation." The President is directed to make public such "information regarding the total amount appropriated and expended ... to the extent required by the Constitution and laws of the United States."

d. DCI Position--The charter may provide that no funds for intelligence activities may be appropriated unless previously authorized. The legislation, however, should not direct that any portion of the funds so authorized shall be made public either specifically, subject to interpretation of any Constitutional or legal requirements, or as determined by the Congress.

6. ISSUE: Reprogramming of funds.

a. E.O.--Grants the Director "full and exclusive authority for reprogramming" NFIP funds, subject to OMB guidelines, appropriate consultation with the heads of affected agencies and the Congress, and Presidential review.

b. SSCI--Similar to provisions in the Executive Order.

c. DOD--Directs only that reprogramming "or a transfer of funds to or from" an agency within the IC in an amount over \$2 million must be "in accordance with law and on the approval of the Director and the head of the department or agency to which the funds were appropriated."

d. DCI Position--The Director should be authorized to reprogram and should be directed to establish guidelines under which proposed reprogramming require his prior approval. Heads of other agencies should be directed to advise the Director of proposed reprogramming within such guidelines and to obtain his approval.

7. ISSUE: Reserve for Contingencies.

a. E.O. --Does not address.

b. SSCI--Authorizes the Director to establish a "Contingency Reserve Fund" to which may be credited only such sums as are "specifically appropriated to the Director" for it. Expenditures of funds from the Reserve by the Director are subject to: prior approval by OMB; prior notification to the intelligence committees of Congress (with a "48-hour-after" exemption for "extraordinary circumstances"); being used only for requirements not anticipated at the time the budget was submitted to the Congress; being used solely for purposes requiring protection against disclosure; and being used only for lawful activities. There are additional limitations on returning monies to the fund and on post-expenditure budgeting.

c. DOD--Authorizes the Director to establish a "Contingency Reserve Fund," under guidelines similar to those in the SSCI draft, except there are no provisions for prior congressional notification or for prior OMB approval.

d. DCI Position--The Director should be authorized to maintain a "Reserve for Contingencies," to credit to it such newly appropriated funds as are so specifically appropriated, and to expend funds from the Reserve for emergency and extraordinary expenses relating to an intelligence or special activity. Such expenditure should be subject only to: OMB approval; keeping the intelligence committees of the Congress "fully and currently informed of all withdrawals"; unexpended funds remaining in or reverting to the Reserve; and subsequent budgetary process treatment for continuing activities.

8. ISSUE: Expenditure of funds for intelligence activities of an extraordinary or emergency nature accounted for solely on the certificate of the Director.

a. E.O. --Does not address.

b. SSCI--Contains such authority, subject to the proviso that such expenditures shall be expended only for lawful activities. The Director would report to the Congress quarterly on use of this authority.

c. DOD--Contains such an authorization, but limited to "amounts ... appropriated to the Director for such purpose." The authority could only be exercised to carry out lawful activities.

d. DCI Position--The Director's authority should be that currently provided in section 8(b) of the CIA Act of 1949 as regards sums made available to the Agency. The proviso that such expenditures shall be limited to lawful activities is not objectionable but is unnecessary. The intelligence committees of the Congress currently may, pursuant to their existing jurisdiction, obtain appropriate information regarding the Director's use of this authority, and a particular manner or time frame for such reporting should not be made a matter of statutory directive.

9. ISSUE: Comptroller General audit and review of national intelligence funds and activities.

a. E.O.--Not addressed.

b. SSCI--Provides that appropriated national intelligence funds and activities "shall be subject to financial and program management audit and review by the Comptroller General," under "such security standards" as prescribed by the Director and the oversight committees. An exemption from such review would be available only upon determination by the Director that exemption is "essential to protect the security of the United States"; the Director would be required to report to the Congress as to each such exemption.

c. DOD--Provides that "all funds appropriated to the Director" (i.e., not agencies within the IC) for "national intelligence activities, and information relating thereto" shall be subject to Comptroller General audit and review, under joint Director-congressional security standards. The draft provides an exemption similar to that in the SSCI draft.

d. DCI Position--Intelligence funds and activities, necessarily involving as they do extremely sensitive intelligence information, should be subject to statutorily-directed outside audit and review only under directive of the intelligence oversight committees and subject to strict security standards as provided by the Director. There should be a proviso that certain funds or activities may be exempt from such review if necessary to protect specially sensitive intelligence activities.

10. ISSUE: Intelligence relationships with foreign governments and services.

a. E.O.--The Director is directed to promote "services of common concern by designated foreign intelligence organizations on behalf of the" IC, to formulate intelligence arrangements with foreign governments, and to coordinate relationships between the IC and foreign services.

b. SSCI--The Director is directed to "formulate, as appropriate," policies on intelligence arrangements with foreign governments, and to "be responsible for all relationships between" the IC and foreign services. The Director, however, must transmit to the oversight committees of the Congress texts of any proposed arrangements prior to their being entered into.

c. DOD--Arrangements between the IC and foreign intelligence or security services are subject to approval by the Director.

d. DCI Position--The Director's responsibilities in the area of relationships with foreign governments and services should be provided as in the E.O.; in other words, the Director should be charged with promoting and implementing services of common concern with foreign entities, and he should have a clear directive that he formulate and coordinate such arrangements. Reporting to the congressional oversight committees should not require, by statute, that texts of all such arrangements be so transmitted. The charter should provide that, in lieu of reporting to the Congress of international agreements pursuant to the Case-Zablocki Act, reporting of intelligence agreements should be only to the intelligence oversight committees. Requiring, by statute, reporting the texts of all arrangements, however, raises serious questions concerning the prerogatives of the Executive in this area, could have a serious negative impact on the willingness of foreign services or governments to deal with us, and, of course, would involve proliferation of sensitive intelligence sources and methods.

11. ISSUE: Reporting of Violations.

a. E.O.--The Intelligence Oversight Board is established to receive and consider reports on intelligence and counterintelligence activities that raise questions of legality of propriety. The Board's primary reporting responsibility is to the President and the Attorney General. Inspectors General and General Counsels of agencies within the IC are assigned responsibilities to receive and transmit to the IOB reports on possible illegal or improper activities. The Attorney General's responsibilities in this area run to receiving reports from the IOB and reporting to the President and the IOB.

b. SSCI--The principal Executive Branch entity responsible for reviewing and reporting on possible violations is the IOB, with responsibility to report to the President, the Attorney General, the Director and heads of agencies within the IC. The Director, the Attorney General and the heads of agencies within the Community are assigned responsibilities for ensuring that violations are discovered and reported on. Further, the Director is required to regularly (but at least annually) notify IC employees of their obligations to report on possible violations, and to report annually to the oversight committees a certification as to the lawfulness of national intelligence activities.

c. DOD--Establishes the IOB with general review and reporting responsibilities to the President on activities it finds to be violative of the Constitution or laws of the U.S. or of Presidential directive or order.

d. DCI Position--Establish the IOB to receive and review reports from the Attorney General, heads of agencies within the IC and Inspectors General and General Counsels of such agencies as to activities that may be unlawful or improper. The Attorney General and the IOB should be directed to inform the President of activities which they find to be unlawful or improper. The Board should keep the Director informed of its findings, and the Attorney General, with due regard for his investigative and prosecutorial responsibilities, should be directed to keep the oversight committees informed of findings reported to the President. Care should be taken so that any reporting to the Congress is not in conflict with Executive Branch investigative and prosecutorial authorities and duties. Generally, the mechanics whereby possible violations of law or Presidential directive or order are reviewed and reported on should be dealt with in Executive Order rather than statute. Moreover, there is no need to require by statute, as the SSCI draft would do, that the Director go through the motions of informing and reinforming IC employees of their duty to report violations. Nor is there a need to provide by statute that the Director certify each year that intelligence activities are lawful, since he and other agency heads would be made statutorily responsible for ensuring this, checked, of course, by the violations-reporting provisions.

12. ISSUE: Reporting to the Congress.

a. E.O.--The Director and heads of agencies within the IC are tasked with keeping the intelligence oversight committees fully and currently informed with respect to intelligence activities, and with reporting to the committees in a timely manner on violations. All reporting would be subject to the provisos that such reporting is not a condition precedent to implementation of intelligence activities, and that reporting will be consistent with the respective authorities and duties of the Executive and Legislative Branches.

b. SSCI--In addition to particular reporting requirements contained, for example, in those sections dealing with the Director's exercise of termination authority, with relationships with foreign governments and services and with violations (see paragraphs 2, 10 and 11 above), the Director is charged with keeping the oversight committees "fully and currently informed of all national intelligence activities." This duty is subject only to the proviso that such reporting does "not constitute a condition precedent ..." The Director shall also provide annual reports to the Congress.

c. DOD--The Director's responsibility for keeping the oversight committees fully and currently informed is similar to that in the SSCI draft. The Director is required also to notify the committees 72 hours in advance of undertaking any special activity subject to Intelligence Coordination Committee approval, and in advance of Contingency Reserve expenditures (there is a "48-hour-after" exception based on Presidential certification). The Director is required further to notify the committees 60 days in advance of concluding arrangements with foreign services and in advance of destruction of records. The Director reports annually to the oversight committees on national intelligence activities so designated, on extraordinary or emergency expenditures, on activities exempted from Comptroller General audit or review, and on matters relating to advisory committees.

d. DCI Position--The general provision on keeping the Congress fully and currently informed on intelligence activities should be consistent with that in the Executive Order. As to reporting on particular exercises of authority, such as termination of employees, arrangements with foreign governments or services, and violations, it is generally preferred that these not be specified in statute. If they are, however, the provisions should be such that they do not require notification or reporting on a specified timetable. Moreover, such requirements should be consistent with the respective authorities and prerogatives of the two Branches of Government and with the practical needs of the Government's intelligence capability (e.g., the willingness of foreign governments and services to deal with the CIA in the face of a statute requiring prior congressional approval of the texts of any and all intelligence arrangements).

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12 DEC 1977

MEMORANDUM FOR: Legislative Counsel

ATTENTION :

FROM

: Michael J. Malanick
Acting Deputy Director for Administration

SUBJECT

: DDA Comments on Proposed Charter Legislation --
Titles I, III and IV

1. Since it is probably purposeful that the legislation goes into such infinite detail, we must be sure that we possess sufficient authorities to conduct our business. We must also ensure that organizational responsibilities and authorities are precise. In line with this, it appears that the definitions of some key terms need clarification. We will indicate specific examples in our narrative. More importantly, so many authorities have been left out of Title IV that we question the usefulness of working from this draft.

2. The following comments represent the salient points raised in our review of the proposals. For your information though we have included the individual submissions from the commenting DDA offices. Please be sure to review these background papers since they contain additional information and supporting data on specific provisions of the proposals.

3. Title I

a. Section 102, page 2. The Statement of Findings is unnecessary. A new statute should focus on the future and let the abuses of the past be forgotten.

b. Section 104, page 4. The definitions:

- "Intelligence Community" (1) includes DEA thus confusing foreign intelligence and law enforcement.
- "special activity" (16) should be changed to "covert activity" throughout the law in order to clarify just what kind of activities are meant.

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- "counteringelligence" (5) should be expanded to cover information pertaining to foreign entities or international entities.
- "international terrorist activity" (22) subsection (B) should include that such activity is intended to further military goals in addition to those goals cited.

c. Section 105(b), page 10. The quotation "executive and legislative branches" makes the Intelligence Community a joint service of two branches of the Government rather than a service of the Executive.

d. Section 107(e)(2), page 15. The language regarding the dual role of the Director of National Intelligence and the Director of CIA needs clarification.

e. Section 107(17), page 18. The language regarding counterintelligence needs to be more exact. What this paragraph says is that the Director of National Intelligence will coordinate with the Attorney General on counterintelligence activities in the U.S.

f. Section 107(20), page 18. This paragraph calls for notifying the committees 30 days in advance of any agreement, arrangement or understanding with a foreign liaison service. Many liaison services will prefer not to deal with us if this provision is retained in the legislation.

g. Section 107(29), page 20.

This would require notification by the Director to the "appropriate committees of Congress" of every termination decision. Is "in a timely manner" intended to be prior notification or subsequent to the termination action.

This section would be complicated by the appointment of a separate Director of National Intelligence and Director of CIA. It would result in the Director of CIA with appointment authority but no termination authority.

h. Section 112(A)(B), page 28. We believe the drafters intended that the word "and" be placed at the end of each of these paragraphs to clarify the meaning of the section.

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i. Section 113(j), page 37. We think that the term "Intelligence Community" should be substituted for "Central Intelligence Agency" to reflect that the Operations Coordinating Committee should be reporting on all foreign intelligence activities within the United States conducted by the entire community.

j. Section 115(a)(1), page 39. The exact meaning of a "full-time religious vocation" needs to be clarified.

k. Section 123(i)(1)(A), page 61 and Section 123 (i)(2)(C), page 62. The Director's responsibility to report any illegalities should extend to all employees of the Intelligence Community and not just the CIA or Office of the Director.

l. Section 123(m), page 63. Does this provision for transmission of copies of regulatory issuances apply to all levels of published instructions?

m. Section 123(p), page 64. We find the requirement for all Intelligence Community agencies to notify the appropriate committees of Congress of their intent to perform routine file destruction unrealistic. Records Control Schedules are approved for all agencies by the Archivist in accordance with paragraph 33, Title 44 of the U.S. Code.

4. There appears to be a serious conflict in the authorities of the CIA and NSA in the area of communications security support.

Section 324(d) of Title III (page 57) specifies that unique communications security methods and procedures must be reviewed by the Director of NSA. This will mean that we must submit to NSA our support plans for clandestine collection and counterintelligence activities. In addition, Section 306(a)(15) (page 12) requires NSA review of the CIA communications security budget and resource allocations. Section 313(j) (page 32) requires NSA to submit an annual report to Congress on all communications activities of the U.S. Despite the non-contravention clause of Section 324(d), we feel strongly that the Agency should seek an exception to the provisions of Title III in the conduct of clandestine communications or at least clarification of the CIA's role in this area.

5. Comments on Title IV

a. Since the proposed legislation is drafted in substantial detail, we assume the intent is to cover all Agency functions. If so, the legislation should be expanded to include performance of the supply function, i.e., the operation of depots and disposal of surplus personal property to foreign sources. The language regarding property funding seems to preclude using proprietary assets to establish a new entity should an existing proprietary

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be liquidated for security reasons. Also, the language on multi-year funding seems to preclude utilization of lapsed funds for change orders to multi-year construction projects.

b. There appears to be a significant omission of any provision for our Headquarters medical facility, although such operation overseas is provided for in Section 417(11), page 36. We suggest the exact language for our total health care program be lifted from the draft legislation to amend chapter 79 of Title 5, U.S. Code which was prepared by the Interagency Committee on Overseas Benefits and Allowances.

c. Another oversight in Title IV seems to be the lack of authorization for the training of CIA personnel although provision is made for CIA training of DOD personnel.

d. There is no provision for domestic travel or assignments; and, our most fundamental overseas benefit, housing, is not mentioned.

e. Section 405(a), page 5. While this Title establishes the position of Director of CIA as "Head of the Agency," Section 107(e) of Title I states that the Director of National Intelligence shall act as Director of CIA. This conflict needs to be resolved.

f. Section 405(d), page 6. This provision for compensation to the DCI and DDCI from appropriated funds is different from current law. We presume salary becomes a reimbursable item if one is an active duty military officer.

g. Section 406(c), page 10. This paragraph does not take into account activities of the Office of Security to detect penetrations of the Agency or its contractors. Under this provision we would be required to get Attorney General approval before each such counterintelligence review.

h. Section 407(a)&(c), pages 12 & 13. We assume the downgrading of the Inspector General and the General Counsel from Level IV to Level V of the Executive schedule was inadvertent.

i. Section 407(c)(1)&(2), page 13. This provision seems to require the Agency to get Congressional approval for any new Executive schedule or supergrade positions after the effective date of this Title.

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j. Section 408(3), page 14 and Section 408(c), page 16.
There is no provision authorizing CIA to detail, loan or assign CIA employees to other agencies or departments.

k. Section 408(4), page 14. We suggest the wording on the power to carry firearms be replaced with the language which OLC has forwarded to OMB as separate legislation:

"(4) authorize...undergoing authorized training."

l. Section 408(6), page 15.

This would limit the DCI's authority to promote or appoint to GS-18 and below. Clarification is necessary as to whether authority will continue to pay officers in positions at levels higher than GS-18 who are included in those positions authorized for transfer to the Agency under Section 407 of the Act.

If the DCI is a different person than the DNI he will be a "Head of Agency" without the normal authorities since Title I provides those authorities to the DNI who "shall also act as the Director of the CIA."

m. Section 411(d), page 22. For purposes of clarity we believe the first line here should read "The Director shall furnish any official information or material...."

n. Section 416(a), page 32. We would like to see the portion from "...in a manner which results in injury to or seriously jeopardizes the safety of such officer or employee, or as could reasonably have been expected to result in injury to or jeopardize the safety of such officer or employee...." deleted. The knowing disclosure itself should be grounds for punishment.

o. Section 417, pages 33-43. Rather than repeat here the numerous comments and questions raised by this section on "Travel Related Expenses, and Death Gratuities for Certain Agency Personnel," we call your attention to the Office of Personnel submission. See particularly pages 3 through 7. Their thorough analysis of this section seems to indicate that the drafters need to be more familiar with the practices the Agency follows in this area. Generally, our policy is based on that of the State Department. Perhaps a briefing by appropriate Agency personnel would be helpful; or, perhaps a closer working arrangement between the drafters and Agency personnel could be established.

/s/ Michael J. Malanick

Michael J. Malanick

Attachments:

Comments by OC, ODP, OL, OP, OS, OTR & SSA

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